UNITED STATES DISTRICT COURT:
WESTERN DISTRICT OF NEW YORK
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IN THE MATTER Petition

of No. 2272-P-24049

The Petition of TIMOTEO ANDRADE
to be admitted a Citizen of the
United States of America.

* *

Appearances: Arthur J. Karnuth, District Director of Immigration and Naturalization, by John L. Murff, Acting Naturalization Examiner.

KNIGHT, District Judge: Timoteo Andrade, now a citizen of Mexico, has petitioned for admission to citizenship in the United States. The District Director of Immigration and Naturalization moves to dismiss thepetition on the sole ground that petitioner is ineligible by race to citizenship. An affidavit of petitioner is presented setting forth that he is of Indian and Spanish blood in equal proportions.

Section 359, Title 8, of the United States Code, provides that the laws relating to naturalization shall apply to aliens being free white persons, and to aliens of African nativity and to persons of African descent. Petitioner is admittedly not of African nativity or descent. It is the contention of the Director that the petitioner is not a free white person.

In a note appended to its opinion in Morrison v. California, 291 U. S. 82, it is stated: "There is a strain of Indian blood in many of the inhabitants of Mexico as well as in the peoples of Central and South America. x x x

Whether persons of such descent may be naturalized in the United States is still an unsettled question." The question is now raised as to an alien of one-half Indian blood.

In Ozawa v. United States, 260 U. S. 178, the rule is asserted that "the words 'white person' were meant to indicate only a person of what is popularly known as the Caucasian race." The term excludes the Chinese, Japanese, Hindus, the American Indians and the Filipinos. Morrison v. California, 291 U. S. 82; United States v. Thind, 261 U. S. 204.

The Supreme Court further stated in Morrison v. California, supra, that " x x x men are not white if the strain of colored blood in them is a half or a quarter, or, not improbably, even less, the governing test always (United States v. Thind, 261 U. S. 204) being that of common understanding." Applicants of one-half Japanese, one-half Chinese, and one-half Japanese-Chinese blood respectively, have been held ineligible to naturalization. In re Knight, 171 F. 299; Ex parte Hing, 22 F. (2d) 554; In re Young, 195 F. 645. In re Alverto, 198 F. 688, held an applicant of three-quarters Filipino blood ineligible. The nearest approach to a decision on similar facts is found In re Camille, 6 F. 257, wherein a person of one-half Indian blood, the mother having been an Indian woman of British Columbia, was denied naturalization. It is my opinion that the rule of these cases applies equally to the petitioner and renders him ineligible to citizenship in the United States.

In re Rodríquez, 81 F. 337, is not consistent with the later decisions of the Supreme Court.

The petition is denied.

December 11, 1935

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United States District Judge

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Petition No. 2272-P-24049

OPINION

KNIGHT, District Judge

FILED
DEC 11 1935
AT ..... O'C ..... M.
May C. Sickmon, Clerk.